



**Request for Proposals 22-01  
INDIANA EDUCATION SAVINGS AUTHORITY**

**For  
CollegeChoice 529 Branding Services**

RELEASE DATE: MAY 26, 2022  
DEADLINE FOR INQUIRIES: JUNE 7, 2022  
**DEADLINE FOR SUBMISSION: JUNE 20, 2022**

**INDIANA EDUCATION SAVINGS AUTHORITY CONTACT**

**Marissa Rowe**  
Executive Director, Indiana Education Savings Authority  
One North Capitol, Suite 900  
Indianapolis, IN 46204  
317.234.8500  
MRowe1@tos.IN.gov

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# I. INTRODUCTION

## A. BACKGROUND

The Indiana Education Savings Authority (Authority) requests Proposals from qualified marketing firms (Providers, you, or your) who wish to provide branding services (Services) to the CollegeChoice 529 Plans (Program). The Authority currently offers three plans: the CollegeChoice 529 Direct Savings Plan (Direct Plan), the CollegeChoice Advisor 529 Savings Plan (Advisor Plan), and CollegeChoice CD 529 College Savings Plan (CD Plan, and together with the Direct Plan and the Advisor Plan, the Plans). Each Plan is a Qualified Tuition Program, also known as a 529 Plan, adopted under Section 529 of the Internal Revenue Code (IRC) and Title 21, Article 9 (Enabling Act) of the Indiana Code (IC).

The Direct Plan and the Advisor Plan are operated by the Authority and Ascensus College Savings Recordkeeping Services, LLC (Ascensus) provides program management services to the Plan, including investment advisory, recordkeeping, administrative, and marketing services. The CD Plan is operated by the Authority and College Savings Bank, a Division of NexBank, N.A. The Authority Board has oversight of the Plans and the Treasurer of State, as chair of the Board, administers, manages, and directs the affairs of the Authority Board.

The Plans offer a variety of investment options, currently designed to assist Hoosiers in saving for their higher education needs. As of March 31, 2022, the Plans have approximately 417,000 funded accounts with total assets of approximately \$6.6 billion.

There are significant federal and state tax benefits offered to those investing in 529 Plans including:

- **A special Indiana tax credit.** Indiana taxpayers can get a state income tax credit equal to 20% of their contributions to a CollegeChoice 529 account, up to \$1,000 per year (\$500 for married filing separately). Beginning with the tax year 2023, this tax credit increases by 50% to up to \$1,500 per year (\$750 for married filing separately).<sup>1</sup>
- **Tax-deferred growth.** Earnings grow tax deferred from federal and state taxes.
- **Tax-free withdrawals.** Withdrawals for qualified expenses are exempt from federal and state tax.<sup>2</sup>
- **Gift-tax benefits.** Contributions qualify for the federal \$16,000 annual gift exclusion.
- **Estate planning benefits.** Reduce your personal taxable estate by making five years' worth of gifts (up to \$80,000; \$160,000 for married couples filing jointly) in one lump sum.<sup>3</sup>

The issuance of the RFP or the receipt of any Proposals submitted pursuant hereto creates no obligation, expressed or implied, on the part of either the Authority or the State of Indiana (State).

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<sup>1</sup> This credit may be subject to recapture from the account owner (not the contributor) in certain circumstances, such as rollovers to another state's 529 plan, federal nonqualified withdrawals, withdrawals used to pay elementary or secondary school tuition for a school outside of Indiana, or qualified education loan repayments as described in the Disclosure Booklet.

<sup>2</sup> Earnings on non-qualified withdrawals are subject to federal income tax and may be subject to a 10% federal penalty tax, as well as state and local income taxes. The availability of tax or other benefits may be contingent on meeting other requirements. See the Disclosure Booklet for more details on qualified expenses.

<sup>3</sup> In the event you do not survive the five-year period, a pro-rated amount will revert back to your taxable estate.

## **B. REBRANDING PLAN**

The state of higher education has been evolving over the last several years with many students participating in non-traditional post-secondary education opportunities. In addition, beginning in 2018, Section 529 of the IRC was amended to allow 529 Plan savings to be used for elementary and secondary school tuition up to \$10,000 per year. The following year, Section 529 was amended to allow 529 Plan savings to be used for expenses for fees, books, supplies, and equipment required for the participation of a beneficiary in an apprenticeship program registered and certified with the Secretary of Labor and certain student loan repayments up to \$10,000 lifetime for a beneficiary or a sibling of that beneficiary.

### **AAU Study**

In July 2021, the Authority engaged a provider to conduct an awareness, attitudes, and usage study (AAU Study). The methodology for the study included:

- Online recruitment of respondents to participate in a 20-minute questionnaire.
- Carry-over questions from prior research as well as new questions to support Program growth.
- Census-balanced sample - at the state level based upon gender, age, Hispanic, AA/Non-AA, and Region.

Key findings of the AAU Study include:

- 10% of the Indiana Adult population have a 529 Plan account – 3 out of 4 of those individuals are utilizing the Program. 13% of people with a Program account also have an account in another state.
- Indiana Regions: The regions that included major counties such as Marion, Tippecanoe, and Vanderburgh are over-represented among Program account owners. These account owners tend to be graduates with full time employment, high \$100K+ incomes, married, and living in Suburban areas. Most of account owners are Caucasians, but the number of Asian and Hispanic account owners index higher than their proportion of the general population.
- The Program is strongly associated with state tax credit benefits among owners (non-users do not know about the state tax credit). Recommendations from a financial professional are a key factor driving plan usage, but only 9% of non-users remember receiving such a recommendation. Account owners are highly satisfied and willing to recommend the Program.
- Awareness of the Program is 44% among Indiana residents, yet the conversion rate of aware to having a Program account at 17% is poor. The primary barrier is a lack of knowledge about the benefits. Some people also cite budgetary constraints.
- Most (53%) Program accounts are opened for children under five years old (30% for under two years old).
- Significantly more people have a retirement savings account: 401K (44%) and IRA (29%) than a 529 Plan account (10% - 7.5% of which is a Program account). Only 16% of those with a 401K and 24% of those with an IRA have a 529 Plan account.

In light of these significant shifts in the mandate around and uses of 529 Plans and, following the completion and results of the AAU Study, the Authority intends to contract with a qualified marketing firm to develop and implement a brand audit including an evaluation and

recommendation on the Program and Plans' existing brand design, and either a brand refresh or a rebrand for the Program and the Plans.

### **C. SCHEDULE OF EVENTS**

Unless otherwise specified below, all deadlines are at **4:00 PM EDT** on each date listed. The Authority reserves the right to adjust this schedule in its sole discretion.

<b>DESCRIPTION</b>	<b>DATE</b>
Release of RFP	<b>May 26, 2022</b>
Final Date for Questions from Potential Providers	<b>June 7, 2022</b>
Authority Responses to Questions	<b>June 10, 2022</b>
Deadline for Submission of Proposals	<b>June 20, 2022</b>

### **D. WRITTEN QUESTIONS PROCESS**

All questions and requests for clarification related to this RFP process must be submitted in writing via email by **June 7, 2022 by 4:00 PM EDT** to [MRowe1@tos.IN.gov](mailto:MRowe1@tos.IN.gov). The email subject line should contain the following phrase: **“REQUEST FOR PROPOSALS 22-01, WRITTEN QUESTIONS”**.

Subsequent to the Written Questions deadline, the Authority will compile a list of the questions submitted by all Providers. Answers to the questions will be posted to the Authority's website at <https://www.in.gov/tos/iesa/>. Only answers posted on the Authority's website will be considered official and valid. No Provider shall rely upon, take any action, or make any decision based upon any verbal communication with any State employee.

Please note that Marissa Rowe, Executive Director of the Authority, is the Authority's only point of contact for this RFP. Inquiries are not to be directed to any other staff member of the Office of the Indiana Treasurer of State. Such action may disqualify the Provider from further consideration for a contract resulting from the RFP.

### **E. AUTHORITY'S RIGHT TO AMEND AND/OR CANCEL THE RFP**

The Authority reserves the right to amend this RFP. If it becomes necessary to revise any part of this RFP, or if additional information is necessary for a clearer interpretation of provisions of this RFP prior to the due date for submissions, then an addendum will be posted on the Authority's website.

By submitting a response, the Provider shall be deemed to have accepted all terms and agreed to all requirements of the RFP (including any revisions/additions made in writing prior to the close of the RFP whether or not such revision occurred prior to the time the Provider submitted its response) unless expressly stated otherwise in the provider's response. Providers are encouraged to frequently check the RFP (<https://www.in.gov/tos/iesa/>) for additional information. Finally, the Authority reserves the right to cancel this RFP at any time.

## **F. COSTS FOR PREPARING RESPONSES**

Each response should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete presentation. The cost for developing the response and participating in this RFP process is the sole responsibility of the Provider. The Authority will not provide reimbursement for such costs.

## **G. CONFIDENTIALITY**

Providers are advised that materials contained in Proposals are subject to the Access to Public Records Act (APRA), IC 5-14-3 et seq., and, after award, the entire Request for Proposals file may be viewed and copied by any member of the public, including news agencies and competitors. Providers claiming a statutory exception to the APRA must indicate so on a separate attachment labeled "Confidential Documentation Listing". That document should include the following information:

- List all documents where claiming a statutory exemption to the APRA;
- Specify which statutory exception of APRA applies for each document;
- Provide a description explaining the manner in which the statutory exception to the APRA applies for each document.

When claiming confidential information, Providers should submit two versions of their response: 1) a confidential version (for the Authority's review and evaluation); and 2) a redacted version (for public records requests).

The Authority reserves the right to make determinations of confidentiality. If the Provider does not identify the statutory exception, the Authority will not consider the submission confidential. If the Authority does not agree that the information designated is confidential under one of the disclosure exceptions to APRA, it may seek the opinion of the Public Access Counselor.

Prices are NOT confidential information.

## **H. RFP RELEASE**

The release of this RFP is formally communicated through the posting of this RFP on the Authority's website, which is accessible online as follows: <https://www.in.gov/tos/iesa/>.

Please carefully review all information contained in the RFP, including all documents available as attachments or available through links. Any difficulty accessing the RFP or opening provided links or documents should be reported immediately to the Authority Contact.

## I. GENERAL REQUIREMENTS AND CONSIDERATIONS

The Provider will provide the Services to the Authority. Providers should affirm that they will fully satisfy the following General Requirements or elaborate on any modification or exception to them. **A Proposal that takes exception to any portion of the Scope of Work may be rejected.**

1. **Mandatory Contractual Terms.** By submitting an offer in response to this RFP, a Provider, if selected for award, will be deemed to have accepted the terms of this RFP and the Form of Services Agreement which is attached hereto and by this reference incorporated herein as *Attachment A*. The Authority reserves the right to further negotiate the terms of the Agreement, in its discretion. **Any exceptions to this RFP or the Agreement must be clearly identified in the Cover Letter to the Technical Proposal.**
2. **Agreement Duration.** If a Provider is selected pursuant to the RFP, the Agreement will become effective upon execution and will remain effective for a period not to exceed one year or such shorter period as the Services have been completed.
3. **Compensation and Payment.** The Provider will be compensated for the Services under the Agreement directly by the Authority. The Provider will not receive additional compensation for miscellaneous charges including, but not limited to, photocopying, postage, telephone, facsimile, shipping/handling and courier/messenger costs between the Provider's location(s) and the Authority's offices. This type of administrative/operational expense may not be part of the Provider's Cost Proposal.  
  
The Provider will not receive compensation for travel time or related expenses such as transportation, mileage, parking, etc., for meetings with the Authority or any vendors rendering Services to the Authority and/or the Provider. Travel related expense may not be part of the Provider's Cost Proposal.
4. **Confidential Information.** The Provider must recognize that all information concerning the Plans and their participants is the sole property of the Authority, is confidential and is not to be used by the Provider for any other purpose.

## J. DEFINITION OF TERMS

**Agreement** – the services agreement entered into between the Authority and the successful Provider.

**Provider(s)** – companies desiring to do business with Authority.

## K. MINIMUM QUALIFICATIONS

**Registration to do Business.** At the time of the award, Providers must be registered, and be in good standing, with the Indiana Secretary of State (IC 5-22-16-4). Vendors may do so at <http://www.in.gov/sos/business/3648.htm>.

## II. SCOPE OF WORK

The Provider shall provide the Services outlined below. The Provider will be expected to provide these Services under the control and direction of the Executive Director of the Authority (Executive Director).

Detailed information regarding the requirements to be met and the tasks to be performed are provided below and in other Sections throughout this RFP. Providers are encouraged to recommend and include in their Technical Proposals any other services or activities necessary or beneficial to the successful refresh or rebranding of the Plan. These should be included in the Technical Proposal and the Cost Proposal, as applicable submitted by the Provider. Notwithstanding any other provision hereof, the Provider(s) must be capable of providing the Services required hereunder immediately upon execution of the Agreement.

The Authority will provide the complete AAU Study to the successful Provider.

### BRANDING SERVICES

**1. General.** The Provider shall provide branding Services including:

- a. An audit of existing brand and marketing materials including an evaluation and recommendation on the Program and Plans' existing brand design
- b. Completion of a brand refresh or complete rebrand, each of which should include an evaluation of the Program's mission statement and values; and analysis of the Program's target audience and market
  - i. Deliverables should include
    - A. Brand voice and messaging
    - B. Program name update/change
    - C. Logo
    - D. Color palette
    - E. Typography
    - F. Imagery
    - G. Brand style guides, including logo usage, typography rules, brand voice, and online branding strategies
- c. The brand refresh/rebrand process may include multiple deliverables (i.e. – deliverables for the Program as a whole and deliverables for each of the Plans)

**2. Brand Refresh.** Following the brand audit (if applicable) and evaluation, if directed by the Authority, the Provider shall conduct a brand refresh that includes, as described above under paragraph 1., brand design, logo design, brand style guides, and brand strategy that specifies the main values, mission and vision of the Program and the Plans.



3. **Rebrand.** Following the brand audit and evaluation, if directed by the Authority, the Provider shall provide full rebranding Services that includes, as described above under paragraph 1., brand redesign, logo redesign, new brand style guides, and new brand strategy that specifies the main values, mission and vision of the Program and the Plans.
4. **Reporting.** The Provider will prepare a review and/or summary of the results of each key milestone of the project as requested by the Executive Director. These reports will highlight key elements of the branding process as mutually agreed upon by the Executive Director and the Provider.
5. **Meetings.** The Provider shall meet regularly with the Executive Director and other members of the Authority's team to review progress, provide necessary guidance to the Executive Director in solving problems that may arise, and provide advice and consultation for next steps. Meetings may be held at the Provider's location, the Plan's office, by telephone, or any other location in Indiana as determined by the Executive Director.

### III. PROPOSAL PREPARATION REQUIREMENTS

#### A. GENERAL

To facilitate timely evaluation of proposals, a standard format for proposal submission has been developed and is described in this section. All Providers are required to format their proposals in a manner consistent with the guidelines described below:

- Each item requested below in Sections B through D must be addressed in the Provider's proposal.
- The Cover Letter must be in the form of a letter.
- The Technical Proposal must be organized under the specific section titles as listed below.
- Please submit the Technical Proposal, the Cost Proposal, and all attachments in PDF format.
- Confidential information must also be clearly marked in a separate folder/file.

**Agreement.** Providers must be able to agree to the terms and conditions of the Form of Services Agreement attached hereto as *Attachment A*.

**Subcontractors.** The Provider is responsible for the performance of any obligations that may result from this RFP and shall not be relieved by the non-performance of any subcontractor. Any Provider's proposal must identify all subcontractors and describe the contractual relationship between the Provider and each subcontractor. Either a copy of the executed subcontract or a letter of agreement over the official signature of the firms involved must accompany each proposal.

Any subcontracts entered into by the Provider must be in compliance with State law and will be subject to the provisions thereof. For each portion of the Services to be provided by a subcontractor, the Technical Proposal must include the identification of the functions to be provided by the subcontractor and the subcontractor's related qualifications and experience.

The combined qualifications and experience of the Provider and any or all subcontractors will be considered in the Authority's evaluation. The Provider must furnish information to the Authority as to the amount of the subcontract, the qualifications of the subcontractor for guaranteeing performance, and any other data that may be required by the Authority. All subcontracts held by the Provider must be made available upon request for inspection and examination by appropriate State officials, and such relationships must meet with the approval of the Authority.

The Provider must list any subcontractor's name, address, and the state in which formed that are proposed to be used in providing the required Services. The subcontractor's responsibilities under the proposal, anticipated dollar amount for the subcontract, the subcontractor's form of organization, and an indication from the subcontractor of a willingness to carry out these responsibilities are to be included for each subcontractor. This assurance in no way relieves the Provider of any responsibilities in responding to this RFP or in completing the commitments documented in the proposal. There is no specific goal for Minority, Women, or Veteran Owned Business participation in this RFP. However, for information purposes, the Provider should indicate which, if any, subcontractors qualify as a Minority, Women, or Veteran Owned Business under IC 4-13-16.5-1 and Executive Order 13-04 and IC 5-22-14-3.5.

## **B. COVER LETTER**

The Cover Letter must be no longer than four (4) pages in length and address the following topics:

**Agreement with Requirements of the Scope of Work listed in Section II.** The Provider must explicitly acknowledge understanding of the general information presented in Section II and agreement with or any modification or exception to any requirements/conditions listed in Section II or *Attachment A –Form of Services Agreement*. **A Proposal that takes exception to any portion of the Scope of Work or to the requirements of the Agreement terms may be rejected.**

**Summary of Ability and Desire to Supply the Services.** The Cover Letter must briefly summarize the Provider's ability to supply the Services that meet the requirements of Section II of this RFP.

**Signature of Authorized Representative.** A person authorized to commit the Provider to its representations and who can certify that the information offered in the proposal meets all general conditions including the information requested in Section II, must sign the Cover Letter. In the Cover Letter, please indicate the principal contact for the proposal along with contact information including physical address, e-mail address, and telephone number.

## **C. TECHNICAL PROPOSAL**

The Technical Proposal must be no longer than fifteen (15) pages in length and include the following:

### **1. Introduction**

- a. **Provider's Technical Information.** Please provide any information about your company that will allow the Authority to evaluate the technical aspects proposed by your company as it relates to fulfilling the Scope of Work (Section II) for the Services.
- b. **Similar Work Experience.** Please describe your company's experience in serving clients of a similar size to the Authority that also had a similar scope including, but not limited to refreshing a brand and rebranding for changes and/or updates to services/products offered. Please provide specific clients and examples of actual work product.

## 2. Plan of Service

This section will provide a detailed discussion of the Provider's service capabilities demonstrating the Provider's approaches to address the requirements outlined in Section II of this RFP. The Plan of Service will fully explain how the proposed Services will satisfy each requirement listed in this RFP (*Section II - Scope of Work*).

As referenced in Section A. above, the Provider must list any subcontractor's name, address, and the state in which formed that are proposed to be used in providing the required Services. The subcontractor's responsibilities under the proposal, anticipated dollar amount for the subcontract, the subcontractor's form of organization, and an indication from the subcontractor of a willingness to carry out these responsibilities are to be included for each subcontractor. If the Provider will use no sub-contractors, so state.

At a minimum, Providers must submit the following as part of their Plan of Service:

- a. Describe the Provider's knowledge and experience in developing brands and/or refreshing or rebranding an existing product.
- b. Describe the Provider's branding/rebranding/brand refresh process, including market research, product analysis and working with the client.
- c. Describe how the Provider conducts brand audits.
- d. Provide three samples of successful brand refreshes or rebranding initiatives including relevant data, market reports showing the success of the refresh or rebrand.
- e. Provide samples of reports prepared by Provider including brand effectiveness and brand style guides.

## 3. Capabilities

At a minimum, Provider must:

- a. Describe the staffing plan to provide the Services required by this RFP, including summary resumes for those with principal responsibilities for managing the Provider's responsibilities under the Agreement as well as for those with principle responsibilities for each functional area. Their resumes should include past experience servicing similar types of programs and any familiarity with 529 Plans.

- b. Describe how the Provider proposes to properly evaluate the project team on a continual basis to ensure that quality standards are met.
- c. Provide three references that will be applicable to the specific Services requested in this RFP. The Authority will have the right to contact any reference as part of the evaluation and selection process. If a Proposal uses a subcontractor(s), provide three references per subcontractor. If the Provider (or a subcontractor) provides this service or a similar service to a state or municipal government, the Provider should identify those entities as a reference. References are to include descriptions of:
  - i. The quality and breadth of services provided by the Provider;
  - ii. Each client reference is to include the following information:
    - a. Name of client organization: Name, title, and telephone number of point of contact for client organization;
    - b. Value and type of contract(s) supporting the client organization, the date the work was performed or the duration of contract(s) supporting the client organization, and the service location; and
    - c. If the Provider is no longer serving this client, an explanation of why the Provider is no longer providing the services.

#### **D. COST PROPOSAL**

**Cost Proposal Schedule.** Please complete the *Cost Proposal Schedule – Attachment B* and submit as a separate PDF document along with the Provider’s Technical Proposal.

**Travel Reimbursement.** The Authority will not reimburse Provider for travel time or related expenses such as transportation, mileage, parking, etc., for meetings with the Authority or any vendors rendering Services to the Authority and/or the Provider. Travel related expense may not be part of the Provider’s Cost Proposal.

#### **E. SUBMISSION REQUIREMENTS**

Each Provider must submit separate Technical and Cost Proposals in PDF or other commonly used formats by e-mail to Marissa Rowe at MRowe1@tos.IN.gov. All responses must be received no later than **June 20, 2022 by 4:00 PM EDT**. The subject line of the email submission must clearly state the following: “RESPONSE TO REQUEST FOR PROPOSALS 22-01”.

#### **F. ADDITIONAL INFORMATION**

The Authority may, at its discretion, ask one or more Providers for additional information and/or to meet with the Authority to further discuss the provider’s information.

## **IV. SELECTION PROCESS AND CRITERIA**

### **A. AWARD OF CONTRACT**

The Authority reserves the right to reject any and all responses to this RFP. The Authority may choose to appoint a selection committee to compile a list of finalists and either seek additional information from these Providers to clarify best and final offers and/or permit an oral presentation to the Authority. The Authority will determine which Proposal offers the best means of servicing the interests of the Plan and the Authority.

### **B. EVALUATION CRITERIA**

Responses will be evaluated based on the following criteria, which is presented in no particular order:

- Experience in branding and rebranding services to similar programs;
- Project and Branding approach project timeline;
- Communication plan with Executive Director; and
- Any other quality or characteristic deemed in the best interests of the Plans or the Authority.

### **C. PROVIDER NOTIFICATION / NOTIFICATION OF AWARD.**

Unless otherwise indicated in the Cover Letter to the Technical Proposal, Providers will receive notification from the Authority with regard to this RFP via e-mail.

It is the Provider's obligation to notify the Authority of any changes in any address that may have occurred since the origination of this solicitation. The Authority will not be held responsible for incorrect vendor/contractor addresses.

# ATTACHMENT A – FORM OF SERVICES AGREEMENT

## MARKETING SERVICES AGREEMENT

This Agreement (“Agreement”) effective \_\_\_\_\_, 2022, entered into by and between the Indiana Education Savings Authority (the “Authority”) and \_\_\_\_\_ (the “Contractor”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

**1. Duties of Contractor.** The Contractor shall provide services to the Authority as described in the Request for Branding Services issued by the Authority on May 26, 2022 and any amendments thereto (“RFP”), the Contractor’s Technical and Cost Proposals submitted in response to the RFP, and the Schedules and Exhibits attached to this Agreement. (collectively, the “Services”).

**2. Consideration.** The Contractor will be paid as set forth in the Cost Proposal Schedule attached hereto as Exhibit A. All services provided by the Contractor under this Agreement must be performed to the Authority’s reasonable satisfaction, as determined at the discretion of the undersigned Authority representative and in accordance with all applicable federal, State, local laws, ordinances, rules, and regulations. The Authority shall not be required to pay for work found to be unsatisfactory, inconsistent with this Agreement or performed in violation of any federal, State, or local statute, ordinance, rule, or regulation.

**3. Term.** This Agreement shall commence on the date set forth above and shall be in effect for (a) one year, or (b) such shorter period as the Services have been completed, unless earlier terminated in accordance with the termination provisions of this Agreement.

**4. Order of Precedence; Incorporation by Reference.** Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) this Agreement, (2) attachments prepared by the Authority, (3) RFP #22-01, (4) Contractor’s response to RFP #22-01, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph, are hereby incorporated fully by reference.

**5. Access to Records.** The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. They shall make such materials available at their respective offices at all reasonable times during the term of this Agreement, and for three (3) years from the date of final payment under this Agreement, for inspection by the Authority or its authorized designees. Copies shall be furnished at no cost to the Authority if requested.

**6. Changes in Work.** The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the Authority. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Agreement may only be amended, supplemented, or modified by a written document executed in the same manner as this Agreement.

## 7. Ownership of Documents and Materials.

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the “Materials”) not developed or licensed by the Contractor prior to execution of this Agreement, but specifically developed under this Agreement shall be considered “work for hire” and the Contractor hereby transfers and assigns any ownership claims to the Authority so that all Materials will be the property of the Authority. If ownership interest in the Materials cannot be assigned to the Authority, the Contractor grants the Authority a non-exclusive, non-cancelable, perpetual, worldwide royalty-free license to use the Materials and to use, modify, copy, and create derivative works of the Materials.

B. Use of the Materials, other than related to Agreement performance by the Contractor, without the prior written consent of the Authority, is prohibited. During the performance of this Agreement, the Contractor shall be responsible for any loss of or damage to the Materials developed for or supplied by the Authority and used to develop or assist in the services provided while the Materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor’s expense. The Contractor shall provide the Authority full, immediate, and unrestricted access to the Materials and to Contractor’s work product during the term of this Agreement.

## 8. Contractor Representations and Warranties.

A. The Contractor shall comply with all applicable federal, State, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable State or federal statute or the promulgation of rules or regulations thereunder after execution of this Agreement shall be reviewed by the Authority and the Contractor to determine whether the provisions of this Agreement require formal modification.

B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the Authority as set forth in IC § 4-2-6, *et seq.*, IC § 4-2-7, *et seq.* and the regulations promulgated thereunder. **If the Contractor has knowledge, or would have acquired knowledge with reasonable inquiry, that a State officer, employee, or special State appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Agreement, the Contractor shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Agreement.** If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana Authority Ethics Commission, or visit the Inspector General’s website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, the Authority may, in its sole discretion, terminate this Agreement immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Contractor certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory, or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement

suspended until the Contractor is current in its payments and has submitted proof of such payment to the Authority.

D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the Authority of any such actions. During the term of such actions, the Contractor agrees that the Authority may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Agreement.

E. The Contractor warrants that the Contractor and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the Authority. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of further work with the State.

F. The Contractor affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of Authority.

G. The signatory for the Contractor has been duly authorized to execute this Agreement on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Contractor when his/her signature is affixed, and accepted by the Authority

**9. Confidentiality of Authority Information.** The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material, and information gathered, based upon, or disclosed to the Contractor for the purpose of this Agreement will not be disclosed to or discussed with third parties without the prior written consent of the Authority.

**10. Indemnification.** The Contractor agrees to indemnify, defend, and hold harmless the Authority, its agents, officials, and employees from all third party claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Agreement. The Authority will not provide indemnification to the Contractor.

**11. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the Authority within ten (10) days after receiving actual notice that the Contractor, or an employee of the Contractor in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of payments, termination of this Agreement and/or debarment of contracting opportunities with the State for up to three (3) years.

**12. Employment Eligibility Verification.** As required by IC § 22-5-1.7, the Contractor swears or affirms under the penalties of perjury that the Contractor does not knowingly employ an unauthorized alien. The Contractor further agrees that:



A. The Contractor shall enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC § 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

B. The Contractor shall not knowingly employ or Agreement with an unauthorized alien. The Contractor shall not retain an employee or Agreement with a person that the Contractor subsequently learns is an unauthorized alien.

C. The Contractor shall require his/her/its subcontractors, who perform work under this Agreement, to certify to the Contractor that the subcontractor does not knowingly employ or Agreement with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor agrees to maintain this certification throughout the duration of the term of a contract with a subcontractor.

D. The Authority may terminate for default if the Contractor fails to cure a breach of this provision no later than thirty (30) days after being notified by the Authority.

**13. Independent Contractor; Workers' Compensation Insurance.** The Contractor is performing as an independent entity under this Agreement. No part of this Agreement shall be construed to represent the creation of an employment, agency, partnership, or joint venture agreement between the parties. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees, or subcontractors of the other party. The Contractor shall provide all necessary unemployment and workers' compensation insurance for the Contractor's employees.

#### **14. Nondiscrimination.**

A. Pursuant to the Indiana Civil Rights Law, specifically IC § 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, Authority, or local law ("Protected Characteristics"). The Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the Authority and any applicant or employee of the Contractor or any subcontractor.

B. The Authority is a recipient of federal funds, and therefore, where applicable, the Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246 as amended by Executive Order 13672.

**15. Penalties/Interest/Attorney's Fees.** The Authority will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as permitted by Indiana law, in part, IC § 5-17-5, IC § 34-54-8, IC § 34-13-1 and IC § 34-52-2. Notwithstanding the provisions contained in IC § 5-17-5, any liability resulting from the Authority's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**16. Public Record.** The Contractor acknowledges that the Authority will not treat this Agreement as containing confidential information, and the Authority will post this Agreement on the transparency portal as required by Executive Order 05-07 and IC § 5-14-3.5-2. Use by the public of the information contained in this Agreement shall not be considered an act of the Authority.

**17. Disputes.**

A. Should any disputes arise with respect to this Agreement, the Contractor and the Authority agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The Contractor agrees that the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Agreement that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the Authority or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim against the Authority for such costs.

C. The Authority may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the Authority to the Contractor of one or more invoices not in dispute in accordance with the terms of this Agreement will not be cause for the Contractor to terminate this Agreement, and the Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

D. This paragraph shall not be construed to abrogate provisions of IC § 4-6-2-11 in situations where dispute resolution efforts lead to a compromise of claims in favor of the Authority as described in that statute. In particular, releases or settlement agreements involving releases of legal claims or potential legal claims of the Authority should be processed consistent with IC § 4-6-2-11, which requires approval of the Governor and Attorney General.

**18. Funding Cancellation.** When the Authority makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be canceled. A determination by the Authority that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**19. Termination for Convenience.** This Agreement may be terminated, in whole or in part, by the Authority, whenever and for any reason, the Authority determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor

shall be compensated for services properly rendered prior to the effective date of termination. The Authority will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original Agreement price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

**20. Termination for Default by the Authority.**

A. With the provision of thirty (30) days' notice to the Contractor, the Authority may terminate this Agreement in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Agreement; the time to correct or cure the breach may be extended beyond thirty (30) days if the Authority determines progress is being made and the extension is agreed to by the parties;
2. Deliver the supplies or perform the services within the time specified in this Agreement or any extension;
3. Make progress so as to endanger performance of this Agreement; or
4. Perform any of the other provisions of this Agreement.

B. If the Authority terminates this Agreement in whole or in part, it may acquire, under the terms and in the manner the Authority considers appropriate, services similar to those terminated, and the Contractor will be liable to the Authority for any excess costs for those supplies or services. However, in the sole discretion of the Authority, the Contractor shall continue the work not terminated.

C. The Authority shall pay the Contractor for completed services accepted. Failure to agree will be a dispute under the Disputes clause. The Authority may withhold from these amounts any sum the Authority determines to be necessary to protect the Authority against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the Authority in this clause are in addition to any other rights and remedies provided by law or equity or under this Agreement.

**21. Termination for Default by the Contractor.** If the Authority, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Agreement, the Contractor may cancel and terminate this Agreement and institute measures to collect monies due up to and including the date of termination.

**22. Waiver of Rights.** No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the Authority's review, approval or acceptance of, nor payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Contractor shall be and remain liable to the Authority in accordance with applicable law for all damages to the Authority caused by the Contractor's negligent performance of any of the services furnished under this Agreement.

**23. Force Majeure.** In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of

governmental bodies not the fault of the affected party (hereinafter referred to as a “Force Majeure Event”), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

**24. Merger & Modification.** This Agreement constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

**25. Severability.** The invalidity of any section, subsection, clause, or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses, or provisions of this Agreement.

**26. Assignment; Successors.** The Contractor binds its successors and assignees to all the terms and conditions of this Agreement. The Contractor shall not assign or subcontract the whole or any part of this Agreement without the Authority’s prior written consent. Additionally, the Contractor shall provide prompt written notice to the Authority of any change in the Contractor’s legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

**27. Non-Collusion and Acceptance.** The undersigned attests, subject to the penalties for perjury, that the undersigned is the properly authorized representative, agent, member, or officer of the Contractor. Further, to the undersigned’s knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the Contractor, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof. Furthermore, if the undersigned has knowledge that a State officer, employee, or special Authority appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Agreement, the Contractor attests to compliance with the disclosure requirements in IC § 4-2-6-10.5.

**28. Governing Law.** This Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**29. Survival.** The provisions of Sections 5, 7, 9, 10, and 16 shall survive termination of this Agreement.

**In Witness Whereof,** the Contractor and the Authority have, through their duly authorized representatives, entered into this Agreement. The parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below agree to the terms thereof.

[Contractor]

**INDIANA EDUCATION SAVINGS  
AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name and Title, Printed

\_\_\_\_\_  
Name and Title, Printed

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT B – COST PROPOSAL SCHEDULE

This Cost Proposal Schedule includes the Services that the Authority anticipates procuring during the term of the Agreement. Until the specific Services to be provided are approved by the Authority, there is no assurance that work under this Agreement will be approved. **The Cost Proposal Schedule contains a reference to the appropriate Scope of Work for each project component.**

Indicate the total cost to develop each of the proposed deliverables under the RFP. If the Provider would normally price the proposed Services as one project, please estimate the portion of the overall proposed cost for each of the following categories and enter the information in the applicable line item below.

The proposed cost should be presented on a not to exceed basis. Please include proposed costs for reporting and attendance at meetings into each applicable Service category. Costs incurred for the Services but not included in this attachment may not be allowed during the course of the Agreement.

No charge: if there is not a charge for any of the services listed, please note with an “n/c.”

SERVICE	NOT TO EXCEED COST
<b>Audit of existing brand and marketing materials; evaluation and recommendations on Program and Plans’ existing brand designs (<i>Section II.1.a of the RFP</i>)</b>	
<b>Brand Refresh for each of the Program, the Direct Plan, the Advisor Plan, and the CD Plan (<i>Section II.1.b and Section II.2 of the RFP</i>)</b>	
<b>Rebrand for each of the Program, the Direct Plan, the Advisor Plan, and the CD Plan (<i>Section II.1.b and Section II.3 of the RFP</i>)</b>	

Submitted by: \_\_\_\_\_  
(Provider Name)

By: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Name and Title)

Date: \_\_\_\_\_